

SALISBURY LOSES IMPORTANT CASE

Supreme Court Holds That Estate of
Maroni Williams Must Be Paid
\$5500 and Interest.

O. J. SALISBURY, according to a decree of the Supreme court, must pay to Kate Guthrie, administratrix of the estate of Maroni Williams, deceased, the sum of \$5500, together with interest, as the balance due on the purchase price of a mining claim sold by the deceased back in 1882. The facts in the case appear to be that Williams agreed to sell the Peabody mining claim, situated in the West Mountain mining district, for \$16,000. He received \$10,500 down, and was to get the balance when the property should again be sold.

The above appellant, together with his brother, Monroe Salisbury, and J. T. Gilmer, were doing business at the time under the firm name of Gilmer, Salisbury & Co., and they speculated considerably in mining properties. The Peabody claim was transferred for a nominal sum to the Stewart Mining company, of which O. J. Salisbury was one of the directors and the other defendants were stockholders. The claim in question proved to be rich and was sold by the Stewart Mining company, along with some other properties, for \$100,000. The defendants held that the first sale of the property was the real sale, so far as the plaintiff was concerned, and that as the price received did not amount to anything they were not obliged to pay anything.

History of the Case.
An action was brought in the District court, where a motion for non-suit by the defendant was granted after the plaintiff had submitted her case. On appeal to the Supreme court the action of the lower court was sustained. Nothing daunted by this, and feeling that she was entitled to the money, the plaintiff instituted another suit, and judgment was rendered in her favor for the full amount prayed for. Then it was O. J. Salisbury's turn to appeal to the Supreme court. His attempt to defeat the action by pleading the statute of limitations was unavailing, as was also his contention that the non-suit of the former action was an estoppel to the present suit.

The opinion is written by Justice McCarthy and concurred in by Chief Justice Baskin. Justice Baskin does not concur in the findings, but did not write any dissenting opinion. The case is definitely disposed of in the following extract from the opinion:

Gist of the Opinion.
"Therefore, it will be seen that the property was eventually sold for a valuable consideration by these parties, and they, having accepted the benefits of the contract, cannot escape the liabilities imposed by its terms; in other words, they could not by a circuitous method of dealing, which the record shows was, in effect, between themselves, appropriate and dispose of the property as their own, and by the same series of transactions, release themselves from the liability to pay the balance of the purchase price."
"We find no reversible error in the record and the judgment is therefore affirmed, with costs."

LAST OFFICIAL ACT IN THE ROSE CASE

Sheriff Emery yesterday made his return on the death warrant issued in the case of the State against Frank P. Rose, and with the filing of the warrant in the District court the final requirement of the statutes in connection with the execution of the murderer was complied with. The Sheriff fixes the time of execution at 10:30 o'clock a. m., his return reading as follows:

"State of Utah, County of Salt Lake, Sheriff's Office—L. C. Frank Emery, Sheriff of Salt Lake County, State of Utah, do hereby certify and return that I received the within and hereto annexed death warrant on the 7th day of March, A. D. 1904, and that at 10:30 o'clock a. m., April 22nd, I executed the same by shooting the said defendant, Frank Rose, within the exterior walls of the Utah State prison, until he was dead."

"Dated at Salt Lake City, this 22nd day of April, A. D. 1904."
"(Signed) C. FRANK EMERY,
"Sheriff Salt Lake County, State of Utah."

WANTS HEAVY DAMAGE FOR A FALL FROM BICYCLE

Salt Lake City is made defendant in a \$5000 damage suit instituted in the District court yesterday by Hattie Lee, who asks that the court award her the above amount as recompense for a broken ankle sustained in a fall from her bicycle. The plaintiff alleges that she was riding north on the west side of Fourth West street, when she encountered a ditch in the sidewalk and was thrown from her wheel. The ankle is said to have been badly injured by the accident, which, it is alleged, was due to negligence on the part of the defendant in not keeping the ditch in repair. The plaintiff was injured on September 17, 1903.

Court Notes.
Yesterday was "bankruptcy day" in the Federal court and almost an even dozen cases were acted upon.

Arthur Klenke, Sam B. Culey and Jacob A. Chatterton were discharged and Stephen Markham and Guy Clark were adjudged bankrupts.

Notice was given that unless W. H. Sherman, William Connell, L. M. Charney, C. L. Perbasco, F. W. Cook and C. Hudson make a payment of fees within ten days, their cases will be dropped.

Judge Hall yesterday granted a divorce to Nellie Campbell from Richard Campbell, on the ground of cruelty. The defendant soon after the couple had been married, February 21, 1903, became addicted to drinking, and often made threats about shooting his wife and their child. The findings also show that he sometimes came home and smashed up the furniture and dishes. The plaintiff is awarded the custody of the minor child.

In the case of M. W. Hicks, appellant, vs. the Southern Pacific company, District Judge Rolapp is reversed in decision granting the motion for non-suit made by the defendant. The plaintiff was injured while working for the defendant and brought suit to recover damages.

cover \$1999 damages. The opinion, written by Chief Justice Baskin, holds that the evidence introduced was sufficient to support a verdict in favor of the defendant, and remands the case for a new trial. The costs are taxed to the respondent. Justice McCarthy concurs in the opinion, while Justice Baskin dissents.

District Judge Maroneaux is upheld by the Supreme court in the case of M. L. Garrity vs. the Bullion-Bock and Champion Mining company, appellant. The action was one wherein the plaintiff sued for \$30,000 damages for personal injuries sustained while working in the mine of the defendant company. The judgment rendered and affirmed by the Supreme court assesses the plaintiff's damages at \$1895. Justice McCarthy writes the opinion, with Chief Justice Baskin and Justice Barch concurring.

The will of George N. Dow, late warden of the State penitentiary, who died in this city on February 27, 1904, was filed for probate in the District court yesterday. The deceased left an estate of the probable value of \$240. His only heirs are his widow, Alice I. Dow, and a son and daughter. In accordance with a provision of the will, Mrs. Dow, the petitioner, asks to be appointed executrix without bonds. The will provides that everything of value of which the deceased died possessed be awarded to his widow.

Decrees of divorce were granted by Judge Lewis to the plaintiffs in the cases of Gertrude Sparks vs. William Sparks and Elizabeth Westfall vs. Harrison Westfall.

Judge Stewart yesterday ordered that the following cases be dismissed at the plaintiffs' cost: Charles A. Towson vs. Consolidated Railway and Power company; William W. Clark vs. Elmer B. Jones et al.; Russell Ivie vs. Union Stone and Lumber company; and Isadore Carlton vs. Consolidated Railway and Power company.

In the case of the State against Carl Warr, charged with attempting to commit burglary, Judge Morse yesterday appointed Attorneys Harwood and Haigh to look after the interests of the defendant.

VICTORIA'S COUSIN DIES AT LEADVILLE

LEADVILLE, Colo., April 23.—Stephanie, Baroness Di Gallotti di Napoli, daughter of Signor Gallotti of Milan, Italy, and a second cousin of the late Queen Victoria of England, is dead in this city.

The Baroness was born in Milan in 1849. When 14 years old she was married to Baron Di Gallotti, with whom she lived happily for many years. In 1885 the Baron was exiled for political reasons from Italy, and a few years later the couple came to America. The Baroness was possessed of a beautiful voice, and in the straits they had been forced into she found it necessary to use her voice for money. She traveled with the leading Italian opera companies in the early sixties. The Baron died in Denver in 1874. He had received a letter from the King of Italy canceling the order expelling him from his country. The shock produced by the joyful tidings caused his death.

CREMATED HIS WIFE AFTER MURDERING HER

DES MOINES, Ia., April 23.—Charles W. Graves, furniture dealer, charged with murdering his wife and burning the body, was found guilty today, the jury recommending life imprisonment. Graves is said to have choked his wife to death in a fit of rage and then to have saturated the body with kerosene, setting it on fire.

A daughter, Winnie Reader, a member of the Graubauer company, arrived at home to spend the holidays three days after the crime was committed. She buried her mother, accused her stepfather of the crime and secured his conviction.

U. S. MEAT INSPECTOR A SUICIDE AT OMAHA

OMAHA, April 23.—The body of a man found dead Friday was identified today as that of Maj. James W. Davis, aged 54, a Government meat inspector, and brother-in-law of the late George Francis Train.

The man evidently had taken his own life by swallowing strychnine, a vial containing some of the drug being found in his hand when the body was discovered. He has lived in Omaha thirty-seven years, formerly was a lawyer of prominence and served as a Major in the Forty-ninth Infantry.

A Heart to Heart Talk

The Hon. Amos P. Atkins, who is one of the most prominent men in New Albany, Ind., and Treasurer of Floyd County, has this advice to give to those who are shut up within the narrow confines of office or shop:

"Dr. Pierce's Golden Medical Discovery seems to take the place of hard training in developing strength, vigor and endurance of the system and expelling all impurities, with which the blood sometimes gets clogged. I have found by personal experience that it enables me to do more hard work, and at the same time endure more physical strain and partake with greater vim in outdoor sports than anything I know of. It can always be relied upon to increase the appetite, induce healthful sleep, and tone and refresh a worn-out system."

"A number of my friends who have used it speak in the same high terms, and we have reason to consider it an office man's friend."

Dr. Pierce's Golden Medical Discovery is a blood-purifier and health-giving tonic that contains no alcohol, opium or other narcotic. It is a purely vegetable compound, made from roots and herbs in an up-to-date pharmaceutical laboratory, and has been used and recommended by thousands of people during the past thirty-seven years.

\$3.00 FORFEIT will be paid by the World's Dispensary Medical Association, Proprietors, Buffalo, N. Y., if they cannot show the original signature of the individual volunteering the above testimonial, and also of the writers of every testimonial among the thousands which they are constantly publishing, thus proving their genuineness.

THOUSANDS OF FAIR WOMEN HERALD PRAISES FOR PE-RU-NA

Neglected Colds and Spring Catarrh Makes Invalids of More Women at This Season Than All Other Diseases Combined.

At the Beginning of a
Cold Is the Time to
Take Pe-Ru-na.

Another Interesting Letter.

MISS MARGARET PHELPS, No. 4 W. Fourth street, Cincinnati, O., Orator Friday Chautauqua Club, writes:

"I consider Peruna the finest remedy for catarrh on the market. A few months ago I caught a cold from getting my feet wet and being exposed to the weather. This cold settled on my lungs and caused them to be sore and irritated, and every time I coughed it would hurt me, and I raised a lot of phlegm. My breath was bad, my appetite poor, and my general condition run down. I began taking Peruna, and in a short time I was restored to perfect health."—Miss Margaret Phelps.

How to Protect Yourself Against Catarrh During the Uncertain Weather of April.

"Keep the feet warm and dry."
"Also keep the chest well protected."
"Sleep in a well ventilated room."
"Be sure to go out in the fresh air every day, so as to be accustomed to outdoor air."

The following of these rules will secure to each individual a reasonable guarantee against coughs, colds, catarrh, spring fever, and so forth, in spite of stush, sleet, rain or sudden changes of temperature.

If, however, you are already the victim of a cough, loose or tight, catarrh, acute or chronic, the remedy that relieves readily, cures quickly and restores permanently is Peruna.

A few doses of Peruna at the beginning of a cold will change the entire course of events. It operates directly on all the mucous membranes, so that no matter where the cold may have settled, it is bound to be reached by this searching remedy. Peruna absolutely prevents catarrh from fastening itself upon any part of the organism. Cure a Cold Before It Develops Into Catarrh.

Miss Alice O'Neill, 312 Adams street, Brooklyn, N. Y., writes:

"I cannot say too much in favor of Peruna. About a year ago I was completely worn out, had a serious cold and a hard cough which seemed to be in danger of affecting my lungs. If my system had been in a stronger condition it would have been much easier to throw off this cold, but I could not seem to get any relief until I took Peruna, and I must say that it did the work thoroughly. Within a week I could see a wonderful improvement, and I took Peruna four weeks, and am in perfect health now."—Miss Alice O'Neill.

Miss Lydia Herziger, Grand Recorder of American Daughters of Independence, writes from Neenah, Wis., as follows:

"I have used Peruna now for four years, each spring and fall, and it keeps me perfectly well and strong. I am able to continue working and do not have to take a three months' rest, as I used to do every year. This is a great comfort to me, as I was not able to afford such a long rest. I find that it is a great preventive for colds and coughs, and soon rids the system of all disease, and is an admirable medicine."—Lydia Herziger.

Mrs. Frances Wilson, 32 Nelson street, Clinton, Mass., writes:

"Had you seen me at the time of my illness and now, you would not wonder that I take delight in sounding the praises of Peruna. My ailment was a severe cold, which attacked the bronchial tubes and lungs. I followed your special directions, and after using six bottles of Peruna, I was on my feet again. I think Peruna a wonderful medicine."

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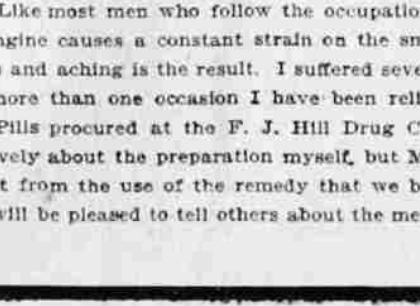
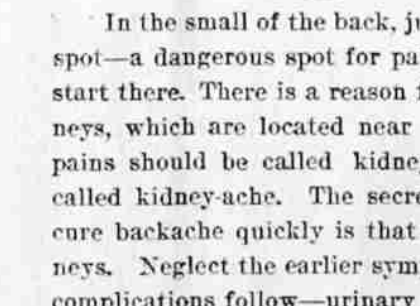
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GARDNER SUNDAY STORE NEWS.



There is little change in Topcoat fashion, from one season to another.

The one you buy to finish out this Spring season,

Will be right in style for next Fall wear and for several seasons to come.

If you buy one of our kind, you can depend on it retaining its shape and appearance until worn out.

And you can depend on its wearing qualities being equal to many seasons of service.

You can have the choice of an attractive array of Light Coverts, Oxford Cheviots and Black Unfinished Worsteds.

\$12 to \$30.

One Price. **J. P. GARDNER**, 136-138 Main St.

THE QUALITY STORE.

Dr. Cook Cures Men

VARICOCELE.

I cure this disease without operation or pain, and under my treatment the congested condition (within ten days) disappears. The parts are restored to their natural condition, vigor and strength, and circulation re-established.

STRICTURE.

I cure stricture without the knife or instrument by an application which acts directly on the part affected, dissolving the stricture completely. My treatment is painless and in no wise interferes with your business duties.

LOSS OF MANLY VIGOR.

You may be lacking in the power of manhood. If so, I will restore to you the snap, vim and vigor of vitality, the loss of which may be the result of indiscretions, excesses and unnatural weakness.

PRIVATE DISEASES.

Newly contracted cases cured. All burning and itching, inflammation and unnatural discharge stopped in 24 hours; cures effected in 7 days.

W. A. COOK, M. D.

CHRONIC DISORDERS OF MEN CURED

I successfully treat all unnatural Weaknesses, Drains, Affected Parts, Nervous Debility, Piles, Fistula, Hydrocele, Rupture, Eczema, Blood and Skin Diseases, Kidney, Bladder and Prostatic Diseases.